

EXHIBIT-1

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Alvin R. Mullen II, et al
Third Party Plaintiffs

Civil Cause No. 4:22 CIV-00742

Vs.

MTH Lending Group L.P., et al
Third Party Defendants

Removed from the 333rd District Court Harris County
under cause No. 2016-879421

Consolidated with

*Miramar Lake Homeowners
Association (Parent being Perez,
Maria Dejesus vs. Miramar Lake
Homeowners Association)
Plaintiffs/Counter-Defendants*

vs.

*Elizabeth Thomas
Defendant/Third Party-Plaintiff*

AMENDED NOTICE OF REMOVAL

Alvin R. Mullen hereby files this “**AMENDED Notice of Removal**” that removed the above-entitled Alvin Mullen et al vs. MTH Lending Group L.P., et al under cause No. 2016-879421, from the 333rd District Court Harris County Texas (*collectively Miramar Lake Homeowners Association vs. Elizabeth Thomas Parent being Perez, Maria Dejesus vs. Miramar Lake Homeowners Association*) to the U.S. District Court for the Southern District of Texas Houston Division. See Exhibit 1

I. BACKGROUND FACTS

1. On October 27, 2021, Alvin Mullen II., filed a “Motion to Remand” in the case In re: Elizabeth Thomas in the United States Bankruptcy Court of the Southern District of New York: White Plains Division into Case No. 18-23676; and pleaded the following facts:

- On March 19, 2018, Debtor Elizabeth Thomas, removed the Miramar Lake Homeowners Association case from the 333rd Judicial District Court, Harris County Texas to the United States Southern District Court of Texas Houston Division into case number 18- CV-00851;
- On June 5, 2018, Debtor Elizabeth Thomas, removed the case styled as *James Allen et al., vs. MTH Lending Group L.P., et al.*, case from the 127th Judicial District Court, Harris County Texas under cause number 2017-76078 to the United States Southern District Court of Texas Houston Division into case number 18- CV-00851 and:
- On June 6, 2018, Debtor Elizabeth Thomas, removed the case styled as *Elizabeth Thomas et, al., vs. Michael Pizzitola et, al.*, from the 127th Judicial District Court, Harris County Texas under cause number 2017-82388 to the United States Southern District Court of Texas Houston Division into case number 18- CV-00851.
- The movants, Alvin R. Mull II, Albert Perry III and Catrice Henry, filed intervention complaints and became parties to the (“851 CASES”) in the United States Southern District Court of Texas Houston Division into case number 18- CV-00851.
- On June 28, 2018, the Honorable Judge David Hittner U.S.D.J., of the United States Southern District Court of Texas Houston Division remanded all three state court cases the (“851 CASES”) to the 333rd Judicial District Court, Harris County Texas; and
- On October 18, 2018, Debtor Elizabeth Thomas filed a voluntary bankruptcy petition for relief under Chapter 13 of Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York White Plains Division case number 18-23676.
- On January 24, 2019, Debtor Elizabeth Thomas filed Notice of Removal and removed the (“851 CASES”) from the 333rd Judicial District Court, Harris County Texas to the United States Bankruptcy Court of the Southern District

of New York: White Plains Division into Case No. 18-23676.

- On September 16, 2021, the movants Alvin R. Mull II, Albert Perry III and Catrice Henry, *pro, se* filed Notice of Removal [Doc.133], invoking 28 U.S.C. § 1452(a), Fed. R. Bankr. P. 9027, and sought to removed the case styled as *Miramar Lake Homeowners Association et al vs. Alvin R. Mullen II s et al*, to the United States Southern District Court of New York: White Plains Division into case number 18-23676.

2. On January 13, 2021, the Honorable Judge Sean H. Lane U.S.B.J., granted Mr. Mullen Motion and signed a remand order remanding all of the above Texas State Court cases to the 333rd Judicial District Court, Harris County Texas, into case No. 2016-87941.

3. On February 9, 2022, the Honorable Judge Jeffrey P. Norman, has already issued a order that on January 13, 2021, the Honorable Judge Sean H. Lane U.S.B.J., remanded all of the Texas State Court cases to the 333rd Judicial District Court, Harris County Texas, under cause No. 2016-87941.

Ms. Thomas removed this suit, along with an affiliated state court suit³ (the “Consolidated Suit”), on February 22, 2018 to the Southern District of Texas. On March 8, 2018, the district court remanded the Consolidated Suit to the 333rd Judicial Court. Ms. Thomas again removed the Consolidated Suit on March 18, 2018 to the District Court for the Southern District of Texas under case no. 18-CV-00851. On June 25, 2018, Judge Hittner again remanded the entire Consolidated Suit to the 333rd and closed the case. Ms. Thomas states in the current notice of removal that she then filed for bankruptcy in the Southern District of New York on October 29, 2018 in case No. 18-23676, and again removed the Consolidated Case from Harris County⁴ to the Southern District of New York bankruptcy court. The New York bankruptcy court remanded all Harris County suits back to the 333rd Judicial District Court on January 13, 2022.⁵

4. MTH Lending Group L.P., has already appeared in the 333rd Judicial District Court, Harris County Texas, under cause No. 2016-87941.

A. Grounds for Removal

5. Alvin R. Mullen II, removed this case the Defendants MTH Lending Group and other defendants are seeking a review of the Honorable Judge Sean H. Lane U.S.B.J., January

13, 2022 bankruptcy remand in state court order as they don't agree with it, and want a state court judge to determine whether they must comply with said bankruptcy remand order.

6. Mr. Mullen sought enforcement of the bankruptcy Court January 13, 2022 bankruptcy remand order however a review of remand order is prohibited by law.

Removal under 28 U.S.C. §1452

7. The Defendants had taken these action seeking a state court to ignore, disregard, and alter or modify an January 13, 2022 remand order therefore, the bankruptcy proceeding is constitutionally as well as statutorily "core" within the Supreme Court's recent ruling in **Stern v. Marshall**, 131 S. Ct. 2594 (2011).

8. Alvin R. Mullen sought enforcement of the bankruptcy Court January 13, 2022, remand order issued by the U.S. District Court for the Southern District of New York in the case entitled In re Elizabeth Thomas under cause No. **18-23676**.

9. Based on the language of § 1452, a party may remove any civil action over which a bankruptcy court has jurisdiction under 28 U.S.C. § 1334. Pursuant to 28 U.S.C. § 1334, 28 U.S.C. § 1334(b); and pursuant to 28 U.S.C. § 9027(a)(2).

V. ADOPTION AND RESERVATION OF DEFENSES

10. Nothing in this ***Amended*** Notice of Removal shall be interpreted as a waiver or relinquishment of the Mr. Mullen rights to maintain and/or assert any affirmative defenses in this matter, including, but not limited to, the defenses of: (1) lack of jurisdiction over the person or subject matter; (2) arguments that venue is improper; (3) insufficiency of process; (4) failure to state a claim; (5) and any other pertinent defense available.

WHEREFORE, the Alvin R. Mullen hereby, this Amended Notice of Removal Alvin Mullen et al vs. *MTH Lending Group L.P* et, al., vs. Alvin Mullen et al vs. Michael Pizzitola et, al., (collectively *Miramar Lake Homeowners Association Inc.*, vs. *Elizabeth Thomas Parent* being Perez, Maria Dejesus et al., vs. *Miramar Lake Homeowners Association.*)

from the 333rd Judicial District Court, Harris County Texas under cause No. 2016-87941 to the United States District Court for the Southern District of Texas; Houston Division.

Respectfully submitted,

COLLEEN M. McCLURE
ATTORNEY AT LAW

By: /s/ Colleen M. McClure
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CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2022, a true and correct copy of the foregoing instrument has been served by electronic transmission via the Court's CM/ECF system upon all parties designated as parties registered to receive electronic notice in this case and by regular mail with the United States Post Office upon:

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ATTORNEYS FOR STEWART TITLE COMPANY AND MARY LESTER

By: /s/ Colleen M. McClure

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**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:22-cv-00742**

MTH Lending Group LP et al v. Mullen II, et al

Assigned to: Judge George C Hanks, Jr

Case in other court: 333rd District Court of Harris County Texas,
No. 17-76078

Cause: 11:101 Bankruptcy

Date Filed: 03/09/2022

Jury Demand: None

Nature of Suit: 370 Other Fraud
Jurisdiction: Federal Question

Debtor

Thomas Elizabeth

represented by **Thomas Elizabeth**
PRO SE

Third Party Defendant

MTH Lending Group LP et al

represented by **Dale Marett Holiday**
Germer LLP
2929 Allen Parkway
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

Third Party Defendant

Michael J. Pizzitola, Jr., et al

ThirdParty Plaintiff

Alvin R Mullen II, et al

represented by **Colleen Michele McClure**
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6046 FM 2920
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ATTORNEY TO BE NOTICED

EXHIBIT C

Date Filed	#	Docket Text
03/09/2022	1	NOTICE OF REMOVAL from 333rd District Court Harris County, case number 2017-76078 (Filing fee \$ 402 receipt number ATXSDC-27857396) filed by Alvin Mullin. (McClure, Colleen) (Entered: 03/09/2022)
03/09/2022	2	NOTICE <i>List of Counsel</i> by Alvin Mullin, filed. (McClure, Colleen) (Entered: 03/09/2022)
03/11/2022	3	STATE COURT RECORDS by Alvin R Mullen II, et al, filed. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17)(McClure, Colleen) (Entered: 03/11/2022)
03/11/2022	4	STATE COURT RECORDS by Alvin R Mullen II, et al, filed. (Attachments: # 1 Exhibit 19, # 2 Exhibit 20, # 3 Exhibit 21, # 4 Exhibit 22, # 5 Exhibit 23, # 6 Exhibit 24, # 7 Exhibit 25, # 8 Exhibit 26, # 9 Exhibit 27, # 10 Exhibit 28, # 11 Exhibit 29, # 12 Exhibit 30, # 13 Exhibit 31, # 14 Exhibit 32, # 15 Exhibit 33, # 16 Exhibit 34, # 17 Exhibit 35, # 18 Exhibit 36, # 19 Exhibit 37)(McClure, Colleen) (Entered: 03/11/2022)
03/24/2022	5	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 7/20/2022 at 09:00 AM in Courtroom 600 in Houston before Magistrate Judge Andrew M Edison. (Signed by Judge George C Hanks, Jr) Parties notified. (bthomas, 4) (Entered: 03/24/2022)
04/02/2022	6	SUGGESTION OF BANKRUPTCY by Thomas Elizabeth, filed. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Andersen, James) (Entered: 04/02/2022)
04/02/2022	7	NOTICE <i>Primary Residential Mortgage Inc. Complaint to Chief Justices</i> by Thomas Elizabeth, filed. (Andersen, James) (Entered: 04/02/2022)
04/08/2022	8	CERTIFICATE OF INTERESTED PARTIES by MTH Lending Group LP et al, filed. (Richard, Gwen) (Entered: 04/08/2022)
06/06/2022	9	NOTICE <i>AMENDED NOTICE OF REMOVAL</i> by Alvin R Mullen II, et al, filed. (Attachments: # 1 Exhibit 1)(McClure, Colleen) (Entered: 06/06/2022)
06/06/2022	10	STATE COURT RECORDS by Alvin R Mullen II, et al, filed. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5)(McClure, Colleen) (Entered: 06/06/2022)
07/11/2022	11	MOTION for Pre-Motion Conference Conference by James Allen, filed. Motion Docket Date 8/1/2022. (McClure, Colleen) (Entered: 07/11/2022)
07/13/2022	12	CLERKS NOTICE OF CANCELLATION. The Initial Conference set for 7/20/2022 at 09:00 AM is CANCELED. Parties notified, filed. (bthomas, 4) (Entered: 07/13/2022)
07/13/2022	13	NOTICE of Setting re: 11 MOTION for Pre-Motion Conference. Parties notified. Pre-Motion Conference set for 7/22/2022 at 10:00 AM by video before Judge George C Hanks Jr, filed. (bthomas, 4) (Entered: 07/13/2022)
07/21/2022	14	Letter to the Court by MTH Lending Group LP et al, filed. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7)(Tatem, James) (Entered: 07/21/2022)
07/22/2022	15	REPLY to 14 Document <i>LETTER FROM MTH LENDING GROUP</i> , filed by Alvin R Mullen II, et al. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 2)(McClure, Colleen) (Entered: 07/22/2022)

EXHIBIT C

07/22/2022	<u>16</u>	Minute Entry for proceedings held before Judge George C Hanks, Jr. PRE-MOTION CONFERENCE held on 7/22/2022 re: <u>11</u> MOTION for Pre-Motion Conference Conference. Alvin R. Mullen II may file a motion to remand on or before August 17, 2022. Responsive briefing is due within 21 days of the date on which Mullen files his motion. Reply briefing is due within seven days of the date on which the responsive briefing is filed. Appearances: Dale Holiday, Colleen McClure, Gwen Richard, Kellie Ros, John Koepke, Elizabeth Thomas. (ERO: yes), filed. (bthomas, 4) (Entered: 07/26/2022)
07/26/2022	<u>17</u>	MOTION for Preliminary Injunction by Alvin R Mullen II, et al, filed. Motion Docket Date 8/16/2022. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15)(McClure, Colleen) (Entered: 07/26/2022)
07/27/2022	<u>18</u>	MOTION to Remand by Alvin R Mullen II, et al, filed. Motion Docket Date 8/17/2022. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Proposed Order)(McClure, Colleen) (Entered: 07/27/2022)
08/09/2022	<u>19</u>	RESPONSE to <u>17</u> MOTION for Preliminary Injunction filed by MTH Lending Group LP et al. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Proposed Order)(Tatem, James) (Entered: 08/09/2022)
08/09/2022	<u>20</u>	RESPONSE to <u>18</u> MOTION to Remand filed by MTH Lending Group LP et al. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Proposed Order)(Tatem, James) (Entered: 08/09/2022)
08/11/2022	<u>21</u>	REPLY TO MTH LENDING GROUP RESPONSE TO ENFORCE REMAND ORDER, filed by Alvin R Mullen II, et al. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Proposed Order)(McClure, Colleen) (Entered: 08/11/2022)
08/15/2022	<u>22</u>	REPLY To MTH LendingGroupResponseto Injunctive Relief, filed by Alvin R Mullen II, et al. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Proposed Order)(McClure, Colleen) (Entered: 08/15/2022)

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PACER Login:	fn1390	Client Code:	Meritage Homes / Miramar Lakes
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